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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/060,872	04/15/98	ESTELL D	GC527

HM11/1208

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EXAMINER	
SAUNDERS, D	

ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 12/08/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
060,872	ESTELL et al
Examiner	**Group Art Unit**
D. SAUNDERS	1644

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1-16 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☑ Claim(s) 1-16 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-4, 8-11, drawn to proteases, classified in class 435, subclass 221.

II. Claims 5-7, drawn to DNA, vectors and host cells, classified in class 435, subclass 252.3.

III. Claim 12, drawn to a method of determining T-cell epitopes, classified in class 435, subclass 7.24 and class 436, subclass 513.

IV. Claims 13-14, drawn to methods of reducing allergenicity of a protein, classified in class 435, subclass 7.24.

V. Claims 15-16, drawn to proteins with reduced allergenicity, classified in class 350, subclasses 350+.

The inventions are distinct, each from the other because of the following reasons:

The compositions of Groups I and II are unrelated in that the products have different structures, properties and functions.

The method of Group III does not use any composition recited in Groups I or II and could be conducted to determine the T-cell epitopes of other, unrelated products, such as those of viral, tumor or self antigens.

The method of Group IV does not require use of the particular cells recited in the method of Group III for identifying T-cell epitopes and does not require measurement of antibody production as recited in the method of Group III. The identifying of T-cell epitopes in the method of Group IV could be conducted by other means -- e.g. Via T-cell proliferation assays.

The products of Group V are distinct form the method of Group IV, since a product is a product, irrespective of the method by which it was identified or produced. For example, how would a protein from one strain of bacteria, that is less allergenic in humans as compared to another strain, be distinguishable in terms of its amino acid substitutions from the protein of the more allergenic strain?

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their recognized divergent subject matter and by their different required searches and classification, restriction for examination purposes as indicated is proper.

If Group I is elected the following species election is required:

This application contains claims directed to the following patentably distinct species of the claimed invention: cleaning compositions, animal feeds, textile treating compositions, each of which requires a different search and each of which is associated with a technically distinct area.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-4 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Applicant is encouraged to respond to a written restriction via a Fax communication to 703-305-3704. Use attached form.

Any inquiry concerning this communication should be directed to D. Saunders at telephone number (703) 308-3976.

Typed 12/5/98 DAS

David A. Saunders

DAVID SAUNDERS
PRIMARY EXAMINER
ART UNIT ~~182~~ 1644